

US EPA ARCHIVE DOCUMENT



Spokane Tribal Natural Resources

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August 14, 2000

Title VI Guidance Comments
US Environmental Protection Agency
Office of Civil Rights (1201A)
1200 Pennsylvania Avenue NW
Washington DC 20406

Dear Sir,

We have reviewed the documents "Draft Title VI Guidance for EPA Recipients Administering Environmental Permitting Programs" and "Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits."

We have three areas of general concern: (1) deferral of tribal guidance to another document (and a later date); (2) lack of government to government consultation; and (3) technical issues associated with risk assessments and how such assessments are conducted.

Revised Title VI EPA guidance is needed by Tribes. We are concerned that deferral of issues relevant to Federally recognized Tribes to another document could cause undue delays.

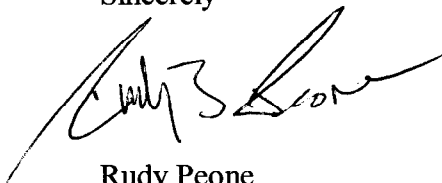
The statement that EPA "has recently concluded a consultation with Federally recognized tribes." is of special concern because EPA did not talk to us. Talking to intertribal groups (if this is indeed what EPA did) does not constitute proper government to government consultation. In our case, we have the technical expertise that EPA needs in order to know how to conduct risk-based disparity analyses in a way that is generically appropriate and relevant to tribes. The primary tribal risk assessor in the country, Dr. Barbara Harper, Ph.D., DABT, is on contract to the Spokane Tribe. We also have a solid working relationship with the only other bona fide tribal risk assessor in the country. As such, ***we request that EPA establish a tribal technical advisory group for risk-based disparity analysis (or equity analysis) that includes the Spokane Tribe.*** We assume that the legal and intergovernmental policy-level processes will continue; however, we feel that the *technical* working group really needs to be quite technical in its membership.

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There are several points in this guidance that will need increased emphasis in the tribal document. For instance, an increased emphasis on cumulative multi-stressor impacts is needed even if the permit in question is only one of the stressor sources. The point that the affected people must also receive direct benefits from the permit holder needs to be strengthened -- the examples used were in the public works arena (POTWs clearly benefit those within its jurisdiction), but less in the industrial or mining/logging/utilities sectors (and tribes seldom receive any benefits, even jobs, while their resources are adversely affected). The loophole allowing a permit to be issued even if it causes disproportionate impacts if it is "integral in the recipient's institutional mission" will need to be reworked.

There are other points that may be quite different for tribes. For example, the emphasis for tribes will be on impacts to resources, not demographics. Therefore, the basis of the risk analysis is likely to be spatial (resource definition and location), not statistical (demographics). The definition of sustainable development may need to be reworded. The underlying risk analysis must be reworked for tribes, This means that the two aforementioned national tribal risk assessors must be involved. Cultural risk must be included. Other points and specific solutions that we have already been developing can be discussed at the technical workshops that we expect EPA to convene and fund.

Sincerely

A handwritten signature in black ink, appearing to read 'Rudy Peone', written over a horizontal line.

Rudy Peone
Director

cc. Councilman David Wynecoop, Spokane Tribe
Mary Verner, STI-DNR
Shannon Work, Givens, Funke & Work
Dr. Kirschner, AESE, Inc.
Dr. Harper, AESE, Inc.